

The Regular Meeting of the Troy City Planning Commission was called to order by Chair Waller at 7:30 p.m. on April 13, 2004, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Gary Chamberlain
Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
Mark J. Vleck
David T. Waller
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Kathy Czarnecki, Recording Secretary

2. PUBLIC COMMENTS

There was no one present who wished to speak.

TABLED ITEMS

3. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA #200) – Article 34.70.00 One Family Cluster Option

Mr. Miller presented a summary of the Planning Department report on the proposed ZOTA #200. Mr. Miller reported that it is the recommendation of the Planning Department to table the item to provide an opportunity for the Planning Department to incorporate comments from the Planning Consultant and City Management into the draft document.

PUBLIC HEARING OPENED

No one was present to speak.

Resolution # PC-2004-04-041

Moved by: Vleck
Seconded by: Littman

RESOLVED, that Zoning Ordinance Text Amendment (ZOTA) #200 is hereby tabled and the Public Hearing will be continued to the April 27, 2004 Planning Commission Special/Study Meeting.

Yes: All present (9)
No: None

MOTION CARRIED

Chair Waller announced the Public Hearing would remain open.

4. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA #201) –**
Article 28.20.13 or 28.30.00 Arts and Dance Schools in Light Industrial Zoning

Mr. Miller presented a summary of the Planning Department report on the proposed ZOTA #201. Mr. Miller reported that it is the recommendation of the Planning Department to table the item for six (6) months to give the Planning Commission time to determine if and when the Maple Road Corridor Analysis will commence.

PUBLIC HEARING OPENED

No one was present to speak.

Resolution # PC-2004-04-042

Moved by: Wright
Seconded by: Schultz

RESOLVED, that the Zoning Ordinance Text Amendment (ZOTA) #201 requested by The Link School for the Arts is hereby tabled for six (6) months to allow sufficient study of the Maple Road Corridor and abutting industrial areas and the M-1 Light Industrial District.

Yes: All present (9)
No: None

MOTION CARRIED

Chair Waller announced the Public Hearing would remain open.

SPECIAL USE APPROVAL

5. PUBLIC HEARING – SPECIAL USE REQUEST (SU 324) – Proposed Dog Day Care/Commercial Kennel, BARK! LLC, North side of Industrial Row, East of Coolidge, Section 32 – M-1

Mr. Savidant presented a summary of the Planning Department report for the proposed dog day care/commercial kennel. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the Special Use request and site plan as submitted.

The petitioner, Andrew Leibovitz of 789 Smith Avenue, Birmingham, was present. Julie Rice, business partner, was also present.

Mr. Vleck asked for clarification on the ground covering of the outdoor play area and the existing and proposed fencing.

Mr. Leibovitz replied that the outdoor play area pavement would be covered with turf. Mr. Leibovitz said there is an existing fence along the western, eastern and northern sides of the property. He indicated that the fencing along the western and northern sides is chain link with vinyl slats that provide privacy. Along the eastern side, vinyl slats would be installed to the existing see-through chain link fence to provide the same type of privacy. Mr. Leibovitz estimated that the privacy fence would inhibit the view from at least five feet. Mr. Leibovitz noted the dogs would be contained within two sets of privacy fencing because the interior dog run is also fenced.

Mr. Vleck stated his concern that an outdoor dog run would potentially create an area that is not compatible with the existing surroundings. He said that dogs would be sensitive enough to see shadows and movement even with the proposed privacy fencing.

Mr. Leibovitz replied that outdoor time for the dogs would be limited to approximately 1.5 hours a day.

Ms. Rice stated that the location of the outdoor dog run is on the north side of the building where there would be very limited traffic and distractions to the dogs.

Mr. Littman asked what the daily drop off and pick up times would be for the dog owners.

Ms. Rice said the hours of operation are 7 a.m. to 7 p.m. She foresees that most of their clients would be dropping/picking up their dogs to and from work, and confirmed that there would be little traffic during the hours of 9 a.m. to 4 p.m. Ms. Rice indicated parking spaces and room to turn around within the parking lot would be provided for the clients.

PUBLIC HEARING OPENED

Gregory Need of Adkison Need & Allen law firm, 39533 Woodward Avenue, Bloomfield Hills, was present to represent the Dako Group, owners of the property at 2966 Industrial Row located immediately to the west of the proposal. Mr. Need provided a history of the Dako Group automotive engineering design business and its major clients. Mr. Need asked that the proposal be rejected on the basis that it does not meet special land use criteria with respect to compatibility of adjacent uses. He expressed particular concerns with the noise and odor that would be generated, and noted the local airport, nearby catering business and fairly high amount of traffic would affect the noise factor.

Scott Baker, one of the owners of the Dako Group, 2966 Industrial Row, Troy, was present. Mr. Baker addressed the following concerns. (1) The proposed turnaround would be using the property of the Dako Group. (2) The existing fence on the western side of the property was paid by him and provides no privacy. (3) The potential impact to leasing the 4,000 square feet of space adjacent to the proposal. (4) The enjoyable smells of the catering business conflicting with odors from the dog facility. (5) The noise generation as a result of the dogs' sensitivity to the heavy air traffic, and the enjoyment taken away from the Dako Group employees who picnic outside during summer months. (6) The compatibility of "suit and tie" clients with dog day care clientele. Mr. Baker asked for the Commission's consideration with respect to the investments made by the existing business owners.

Tyner Mayer, property owner of 2900 Industrial Row, Troy, was present. Mr. Mayer provided letters and a signed petition from businesses in the immediate vicinity that are in opposition to the proposed dog day care and kennel facility. Mr. Mayer, who is retired, said his investment of three leasable suites provide his income. He believes the proposal would create a hardship to him and other property owners, as it would jeopardize keeping current tenants and procuring future tenants. Mr. Mayer expressed his concern that the barking and odor from the proposed facility would be an undesirable neighbor for the professional businesses in the vicinity.

John Forte, owner of Forte Belanger Catering located at 1100 Coolidge, Troy, was present. The catering business is located northeast of the proposed facility and the parking area is located approximately 30 feet from the proposed outdoor dog play area. Mr. Forte expressed his concern that the barking and odors generated from the proposed dog day care facility would not be compatible to his business. He said clients visit his facility for sample tastings prior to placing their orders, and any odor from the proposed dog day care facility would be a detriment to his business.

Norman Fender of Edon Controls, 2891 Industrial Row, Troy, was present. Mr. Fender asked for clarification on the City sign posted at the proposed site and questioned if the building could be remodeled prior to the approval of the Special Use request.

Mr. Miller provided an explanation of the Special Use request and its legal publication process. Mr. Miller said that any remodeling of the existing building is allowed as long as the necessary permits have been granted, but he noted that the use of the building could not change until it is approved by the City.

Mr. Fender said that the proposed facility is the most ludicrous proposal he has ever heard of going into a light industrial area. He expressed his concern with the barking and the odors. Mr. Fender said that should the Special Use request be approved, it means that the City does not care about the people who invested in that community and industrial environment. Mr. Fender read a letter signed by him and requested that it be incorporated in the file.

John Hascall of 2921 Industrial Row, Troy, was present. Mr. Hascall said he is totally opposed to the proposed facility as a tenant. His father, the owner of the property, submitted his objection in writing. Mr. Hascall questioned the parking and setbacks of the proposed facility. Mr. Hascall said from his experience a kennel facility is a messy operation and would not be appropriate in the Industrial Row vicinity.

Deborah Plumm Lambourn, President of Tyner Mayer Laboratory, 2900 Industrial Row, Troy, was present. Ms. Lambourn said her dental laboratory does business with 50 dentists in the Birmingham area and noted that clients visit her laboratory on a daily basis. Ms. Lambourn said she is an avid animal lover with several pets of her own. She expressed her concern that the proposed dog day care facility would hamper future leasing opportunities for business owners, who would lose existing clientele. Ms. Lambourn said she does not think it would be fair to let one business jeopardize existing businesses that have been in operation for over 20 years. Ms. Lambourn questioned the protocol of the City noise ordinance.

The petitioners responded to the public comments.

Ms. Rice said she understands and respects the concerns of those who spoke this evening. Ms. Rice, with 2.5 years of experience in the operations of a dog day care facility, provided insight to the precautionary measures taken to address noise and odor issues. Ms. Rice explained that the facility would be set up with three interior play rooms (capacity of 20/20/10 dogs per play room), and that each play room would have individual outdoor play times limited to 20 to 30 minutes each (limited to 1.5 hours daily of outdoor play time). She said attendants would be trained to dispose of any waste deposit immediately and explained the waste disposal procedure that would be followed. Ms. Rice said this specific location was chosen for the purpose of catering to an upscale community, and noted it is in their best interest to provide their clients with a clean and quiet operation.

Mr. Leibovitz said the noise generated by the dogs would be minimal in relation to the noise from the existing truck and air traffic. He reiterated that the Planning Department's report reveals that the Special Use request is a compatible use in the M-1 district. Mr. Leibovitz responded that the Dako Group driveway would not be

utilized in the proposed turnaround, that the dogs would not be near the fence located on the western portion of the property, and that renovations to the existing building are being done by the landlord and are no relation to the Special Use request. Mr. Leibovitz confirmed that any necessary additional privacy fencing would be provided to minimize noise. Mr. Leibovitz stated that the boarding capacity of the facility would be 12 dogs.

PUBLIC HEARING CLOSED

Mr. Chamberlain asked legal counsel on what basis a Special Use request could be denied should the request meet all zoning ordinance requirements.

Mr. Motzny replied that the Commission is responsible to make special findings prior to granting approval of a Special Use request. He said that one of those special findings, in this particular case, is a finding that the proposed special use is compatible with the adjacent uses. He said if that finding is not made, then the special land use could be denied.

Mr. Wright said his golden retriever has a very good sense of hearing and he knows how loudly she can bark when she hears something but not necessarily see it. He said that he also knows the challenge of keeping their backyard cleared of waste with just one dog.

Resolution # PC-2004-04-043

Moved by: Wright

Seconded by: Vleck

RESOLVED, that the Special Use Approval and Site Plan Approval, pursuant to Section 28.30.08 of the Zoning Ordinance, as requested for the proposed BARK! Commercial Kennel, located on the north side of Industrial Row, east of Coolidge, Section 32, within the M-1 Zoning District, be denied, for the following reasons:

1. The proposed use is incompatible with the surrounding areas; and
2. There is a potential effect of devaluing the surrounding properties.

Discussion on the motion.

Mr. Vleck said he does not think the use is compatible with the existing businesses because both the outdoor play area and the indoor facility are too close in proximity to the existing businesses.

Ms. Drake-Batts questioned if there is a difference between special use approvals of previous dog day care facilities and the proposed facility before the Commission tonight.

Mr. Miller provided a history of the amendment to the Zoning Ordinance relating to commercial kennels and dog day care facilities. Referencing Camp BowWow and Yuppy Puppy, Mr. Miller said the two approved special uses are similar but noted that each submission is different in its own respect. Mr. Miller stated that the quality of the industrial area along Industrial Row is exceptional for an M-1 zoning district. He noted the attractiveness of the existing buildings, the orderly development and the landscaping enhances the M-1 area. Mr. Miller brought to the attention of the Commission that the M-1 district is the zoning district designed for the most intensive land use, and a petitioner could, by right of ownership, put a trucking terminal on the same street.

Mr. Wright agreed that Industrial Row is one of the nicest M-1 zoning districts in the City. He said that the two dog day care facilities previously approved are not located in as nice of an M-1 district. Mr. Wright said the previously approved facilities do not have a restaurant/catering service next door producing tempting odors, nor do they have airports in their backyards generating noise. Mr. Wright said he thinks the Special Use request before the Commission tonight is a special circumstance that precludes that particular location.

Mr. Vleck agreed with Mr. Wright's comments.

Mr. Chamberlain agreed that Industrial Row is exceptionally landscaped and makes a good presentation for the business clientele, but noted that the area is zoned for industrial uses.

Mr. Miller, stating that he would not make a determination until he discussed the matter with the Building & Zoning Director, noted that the existing catering business might not be a permitted use in the M-1 zoning district.

Mr. Littman said he does not perceive the noise or odors to be a problem, and noted that the dogs would remain inside the facility for the majority of the day and the odors would be properly controlled. He said it does not appear that existing commercial kennels located in residential areas are generating complaints.

Mr. Wright responded that the commercial kennels located in residential areas were in existence prior to the residents purchasing their homes.

Mr. Vleck said he lives near an existing commercial kennel on Rochester Road and can definitely hear the barking. He thinks the Special Use request poses a potential adverse affect for the clientele visiting the existing businesses.

Mr. Strat said he respects the fact of the importance of tenants to the value of a business and the influence the surrounding area could have on a business. Mr. Strat thinks there is potential that the existing businesses would depreciate should the Special Use request be approved, and noted his agreement with the motion on the floor.

Mr. Schultz said the request does fall into an area of compatibility and the proposed use is allowed by special use, not by right. He said the Commission tonight reviewed the applicability and appropriateness of this Special Use request in relation to its proposed location.

Vote on the motion on the floor.

Yes: Khan, Schultz, Strat, Vleck, Waller, Wright
No: Chamberlain, Drake-Batts, Littman

MOTION CARRIED

Mr. Littman voted no because he thinks the surrounding owners are perceiving problems that he thinks will not exist.

Ms. Drake-Batts said it might have been proactive for the petitioners to address the concerns of the neighboring businesses prior to tonight's meeting. Ms. Drake-Batts voted no to be consistent with the voting on previous similar Special Use requests. Ms. Drake-Batts said the request is an allowable use in the M-1 zoning district.

Mr. Chamberlain concurred with the comments of Mr. Littman and Ms. Drake-Batts. He said the request met all zoning ordinance requirements and the M-1 zoning district is designed for uses with smells, noise, traffic, trucks, etc.

REZONING REQUESTS

6. PUBLIC HEARING – PROPOSED REZONING (Z-582) – Existing Clark Station, Northeast corner of John R and Maple, Section 25 – From B-3 to H-S

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning of the existing Clark Station. Mr. Miller stated that non-use variances from the Board of Zoning Appeals would be required prior to site plan approval. He noted that prudent site planning suggests that consolidation of adjacent properties, particularly the vacant property to the east, is very desirable and would allow for the development of a service station that would meet the Zoning Ordinance requirements. Mr. Miller confirmed that the Planning Department took into consideration the proposed right of way in its computation of the minimum site area standard for service stations (15,000 square feet). Mr. Miller reported that the Planning Department recommends approval of the rezoning application.

The petitioner, Mike Kozlowski of Caeruleum Environmental Design, 5603 S. Telegraph, Dearborn Heights, was present. Mr. Kozlowski said the owner would like to rebuild the Clark gas station. He said the Planning Department has made the future right of way requirements clear. Mr. Kozlowski said he is prepared to pursue the required setback variances from the Board of Zoning Appeals. He stated the future road reconstruction is providing an opportunity to consolidate driveways at

the location, replace ancient fuel equipment, rebuild the building, and provide landscaping and sidewalks.

A brief discussion followed with respect to the variances on the required setbacks and the on-site retention.

Mr. Kozlowski said a series of variances for setback requirements would result in approximately a 10-foot setback variance from John R and a 3-foot setback variance from Maple Road. He said the building area on site, taking into consideration the building setbacks, would result in approximately less than 3,000 square feet at the dead center of the site. Mr. Kozlowski said it is his intention to ask that the building be placed to the far eastern side of the site, resulting in a 0-foot setback. Mr. Kozlowski noted that should the City not approve their variance requests, the project would most likely not proceed. Mr. Kozlowski confirmed that the property owner to the east has no interest in selling his property. Mr. Kozlowski confirmed that the retention would be on-site and would be accommodated by oversized drain pipes.

PUBLIC HEARING OPENED

Victor Talia of 1636 Milverton, Troy, was present to represent Sam Talia. Mr. Sam Talia is the owner of the Bottle & Cork store located at 1660 John R, Premier Plaza located at 2059-2071 E. Maple, and the property directly east of the proposed rezoning. Mr. Talia said that Sam Talia wishes to extend and renovate the Premier Plaza property. Mr. Talia addressed his concerns with inconsistencies on the site plan that relate to the future right of way.

The Commission informed Mr. Talia that a recommendation would be made to the City Council on the rezoning proposal, and that site plan approval would be considered at a future meeting. The Commission also informed Mr. Talia that they were not in possession of a site plan.

Mr. Vleck said he had no objection to the proposed rezoning but noted he is not in favor of 0-foot setbacks for any projects.

Mr. Kozlowski discussed the proposed relocation of the gas pumps in the right of way and the 0-foot setbacks for the building location.

Mr. Vleck questioned what the side yard setback requirement would be for the building should the proposed rezoning be approved.

Mr. Miller cited the ordinance reads that no side yard setback would be required along the interior side lot lines of the district or along side lot lines common with other B zoning districts, with no windows or doors along the wall in question.

PUBLIC HEARING CLOSED

Resolution # PC-2004-04-044

Moved by: Littman

Seconded by: Wright

RESOLVED, that the Planning Commission hereby recommends to the City Council that the B-3 to H-S (Z-582) rezoning request located on the northeast corner of John R and Maple, within Section 25, being 0.48 acres in size, be granted.

Yes: All present (9)

No: None

MOTION CARRIED

7. **PUBLIC HEARING – PROPOSED REZONING (Z-694)** – Proposed Knights of Columbus Hall (in existing building), West side of Dequindre, South of Big Beaver, Section 25 – From B-1 to B-2

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning. Mr. Miller stated that should the property be rezoned, the petitioner would be required to get Special Use approval from the Planning Commission to change the use to make improvements to the nonconforming structure. Variances from the Board of Zoning Appeals may be required prior to applying for site plan approval. He reported that during site plan approval, all site nonconformities would be addressed. Mr. Miller reported that the Planning Department recommends approval of the rezoning application.

There was a brief discussion with respect to correspondence received from St. Joseph Catholic Chaldean Church. The church would allow the use of its parking facility as additional parking for the operation of the proposed Knights of Columbus. Mr. Miller noted that the distance between the two facilities would not be a walkable distance.

Mr. Chamberlain questioned setback requirements for B-3 zoning and asked what the down side would be, if any, should the property be rezoned to B-3.

Mr. Miller responded that B-3 zoning would allow the proposed use. He said the down side of rezoning the parcel to B-3 would be that more intensive uses would be permitted, which could potentially create a domino effect where all of the southwest corner would convert to B-3 zoning.

A discussion followed with respect to the impact of B-2 and B-3 zoning on the proposed site. It was the consensus of the Commission to review the matter further at a future study meeting.

The petitioner, Mike Kozlowski of Caeruleum Environmental Design, 5603 S. Telegraph, Dearborn Heights, was present. Mr. Kozlowski said he trusts the

Commission's insight relating to the required variances from the Board of Zoning Appeals, and indicated he would pursue the B-3 rezoning should the Commission make that recommendation.

PUBLIC HEARING OPENED

No one was present to speak.

Resolution # PC-2004-04-045

Moved by: Chamberlain

Seconded by: Vleck

RESOLVED, That the Planning Commission hereby tables proposed Rezoning Request Z694, located on the west side of Dequindre and south of Big Beaver, within Section 25, being 0.65 acres in size, to the April 27, 2004 Special/Study Meeting for the review of whether the proposal should be rezoned to B-2 or B-3, or remain as B-1 zoning.

Yes: All present (9)

No: None

MOTION CARRIED

Chair Waller announced the Public Hearing would remain open.

GOOD OF THE ORDER

Mr. Vleck said he is looking forward to working with the new Mayor and City Council and continuing the discussion on ways to improve the communication between City Council and the Planning Commission.

Chair Waller distributed sub-committee assignments.

ADJOURN

The Regular Meeting of the Planning Commission was adjourned at 9:35 p.m.

Respectfully submitted,

David T. Waller, Chair

Kathy L. Czarnecki, Recording Secretary